

Rye City Planning Commission Minutes

June 18, 2002

1 **PRESENT:**

2
3 Michael W. Klemens, Chairman
4 Peter Larr, Vice-Chairman
5 Franklin Chu
6 Hugh Greechan
7 Martha Monserrate
8 Lawrence H. Lehman
9

10 **ABSENT:**

11
12 Barbara Cummings
13

14 **ALSO PRESENT:**

15
16 Christian K. Miller, AICP, City Planner
17 George Mottarella, City Engineer
18 Nicholas Hodnett, Chairman, Conservation Commission/Advisory Council (CC/AC)
19 James Nash, CC/AC
20

21 Chairman Klemens called the regular meeting to order in the Council Hearing Room of the
22 City Hall and noted that a quorum was present to conduct official business.
23

24 **I. HEARINGS**

25
26 **1. Mahoney Residence**
27

28 Chairman Klemens read the public notice.
29

30 Linda Whitehead (applicant's attorney) provided an overview of the application noting that
31 it involved the construction of a detached garage a portion of which is located within a
32 wetland buffer. She noted that the property is located at 10 Dogwood Lane and that the
33 wetland is located off-site on the Apawamis Club property. The wetland consists of a
34 stream that ends at a culvert on the opposite side of Dogwood Lane from the applicant's
35 property. Ms. Whitehead noted that as discussed by the Commission and agreed to by the
36 applicant, the applicant will provide a \$1,500 contribution towards a planned City drainage
37 project within the immediate vicinity of the site. Ms. Whitehead concluded her presentation
38 by noting that given the scope of the project and the fact stormwater would drain away from
39 the existing wetland, that the applicant's proposal would not adversely impact the off-site
40 wetland.
41

42 There were no public comments.

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On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H. Lehman, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing on wetland permit application number 112.

2. Breitel Residence

Beth Evans (applicant's environmental consultant) provided an overview of the proposed wetland restoration plans noting that they involve the removal of approximately 350 cubic yards of material from a wetland area located on an adjacent Westchester County property and along the top of the slope on side of the residence. Ms. Evans noted that the plan includes the construction of a retaining wall along the rear property boundary using existing boulders on the site. This wall would allow a reasonable use of the rear yard and serve to define Westchester County property.

Ms. Evans discussed the planting plan, which involves the addition and restoration of native plantings and costs approximately \$10,000. She noted that the plan preserves existing large trees on the property. Ms. Evans explained that the implementation of the plan would be supervised to ensure proper erosion control and to determine if additional mitigation is necessary in the event additional wetland area is discovered during the remediation process.

The City Planner noted that he received a telephone message from David Delucia of Westchester County Parks Department indicating that they were satisfied with the proposed remediation plan.

Dennis Farrell of 16 Hook Road noted complaints with current activities on the site and noted dissatisfaction with the City's response to his concerns. More specifically, Mr. Farrell alleged that the site is being used a transfer station for other construction jobs in the City. He noted the storage of unlicensed vehicles and other construction equipment on the property. Mr. Farrell complained of construction vehicles damaging the traffic circle at the end of Hook road and the accumulation of silt on the street in front of the site. He also

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1 noted that porta-john used by construction workers was inappropriately located too close to
2 the street. To ensure compliance with an approved plan, Mr. Farrell recommended that the
3 applicant be required to post a performance bond. Mr. Farrell concluded by noting that he
4 is officially making these comments at the public hearing since the Commission was
5 prohibited from discussing such comments at the site walk, which he attended.

6
7 The Commission responded that the City is working to address some of the concerns
8 raised by Mr. Farrell and that an approval of the application would respond to other
9 activities on the site. The Commission also noted that it suggested that Mr. Farrell submit
10 his remarks at the public hearing, since the Commission cannot respond to substantive
11 comments or make decisions while at a site walk.

12
13 There were no other public comments.

14
15 On a motion made by Peter Larr, seconded by Lawrence Lehman and carried by the
16 following vote:

17
18 AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H.
19 Lehman, Martha Monserrate

20 NAYS: None

21 RECUSED: None

22 ABSENT: Barbara Cummings

23
24
25 the Planning Commission took the following action:

26
27 **ACTION:** The Planning Commission closed the public hearing on wetland permit
28 application number 107.

II. ITEMS PENDING ACTION

1. Mahoney Residence

34
35 The Commission noted that it found the \$1,500 fee-in-lieu of wetland mitigation
36 acceptable. The Commission noted that the money would be applied towards a drainage
37 project included in the City's capital improvement program for the area.

38
39 The City Planner represented that Corporation Counsel had no concerns with the fee. He
40 also noted that the City would not return the money in the event the project was not
41 completed within a specific time period.

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On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H. Lehman, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

ACTION: The Planning Commission adopted a resolution conditionally approving wetland permit application number 112.

2. Breitel Residence

The Commission discussed the proposed fill to remain on the property. Ms. Evans explained that the fill (approximately 350 cubic yards) would be removed from the wetland and Westchester County property. Some fill would remain in the wetland buffer on the uphill side of the proposed stonewall located along the rear property line. Ms. Evans noted that this will provide for a level rear yard for the applicant's children to play.

The Commission discussed the ownership of the property. Dr. Breitel (applicant) indicated that he owns the property with his wife. The City Planner reviewed the application form prepared by the applicant's consultant and noted that form indicates that only he (not his wife) is the owner of the property. The City Planner advised that there should be no action on this application until this discrepancy is discussed with Corporation Counsel. The Commission noted that this oversight in property ownership could impact the enforcement of any conditional approval and prior notices of violation issued by the City. The Commission requested that the Corporation Counsel provide a written response to the following questions:

- Does Mrs. Breitel need to consent to the filing of the wetland permit application or can the Commission act on the application based solely on Mr. Breitel's submission as one of the two property owners?
- Was the public hearing notice deficient since it referenced only one, not both, property owners and should another public hearing be noticed and held to reflect the accurate property owner name?
- If there is a potential error in the issuance of the City's wetland violation notice, how (if at all) does this impact the Commission's approval of the application?

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1 The Commission discussed the concerns expressed by Mr. Farrell in the public hearing.
2 The Commission noted the significant quality of life impact the use of the property is having
3 on neighbors. Dr. Breitel explained that the vehicles and dumpsters have been removed.
4 The Commission requested that Dr. Breitel add an anti-tracking pad at the site entrance to
5 prevent the silt accumulation in the street. They also requested that existing silt be
6 removed from the street and that the porta-john be setback further from Hook Road. Dr.
7 Breitel indicated that he would comply with the Commission's requests.

8
9 The Commission discussed enforcement of on-site construction activities in the future. The
10 Commission suggested that the applicant needed better control over the contractors in his
11 employ.

12
13 On a motion made by Michael W. Klemens, seconded by Martha Monserrate and carried
14 by the following vote:

15
16 AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H.
17 Lehman, Martha Monserrate

18 NAYS: None

19 RECUSED: None

20 ABSENT: Barbara Cummings

21
22 the Planning Commission took the following action:

23
24 **ACTION:** The Planning Commission set a second public hearing on wetland permit
25 application number 107 for its July 23, 2002 meeting only in the event
26 Corporation Counsel advises that the original notice was deficient.

27 28 29 **3. Rapisardi Residence**

30
31 The Commission discussed the report of Steven Coleman (City's wetland consultant)
32 noting that it was helpful and that it provided an updated delineation of the existing wetland
33 on the property. The Commission noted the applicant's revised site plan showing the new
34 wetland boundary and the addition of a detail for the delineation of the restricted area as
35 shown on the approved subdivision plat.

36
37 The Commission released the Coleman report to the public file. Mr. Hodnett (CC/AC
38 chairman) requested an opportunity to review it. The Commission temporarily suspended
39 discussion on the matter to give the CC/AC the opportunity to review the report and
40 provide recommendations back to the Commission.

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1 Mr. Hodnett reported that he agreed with the Coleman report. The report indicated that the
2 plant material provided by the applicant was wetland appropriate, which was a concern of
3 the CC/AC in their May 7, 2002 memorandum to the Commission. Mr. Hodnett also noted
4 that the Commission should take appropriate measures to prevent the further
5 encroachment of existing lawn into the restricted area.

6
7 The Commission noted the modified wetland boundary results in larger wetland buffer, but
8 that the approval of the wetland permit would permit the continuation of these existing
9 structures and lawn area within the buffer. The Commission noted, however, that there
10 should be no expansion of these existing structures or lawn into the restricted area. They
11 noted that the proposed stone markers would serve to monument the edge of the buffer
12 and help demarcate this area to prevent encroachment by the existing or future property
13 owners.

14
15 Chairman Klemens noted that he discussed with a wildlife biologist possible additional
16 modifications to the plan to enhance wildlife opportunities on the property. The biologist
17 noted however that such opportunities appeared limited given the existing quality and
18 fragmentation of the wetland area.

19
20 The Commission concluded its discussion by agreeing with recommendations 5 and 6 of
21 the Coleman report and recommended that they be included as conditions of approval.

22
23 On a motion made by Peter Larr, seconded by Hugh Greechan and carried by the following
24 vote:

25
26 AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H.
27 Lehman, Martha Monserrate
28 NAYS: None
29 RECUSED: None
30 ABSENT: Barbara Cummings

31
32 the Planning Commission took the following action:

33
34 **ACTION:** The Planning Commission adopted a resolution conditionally approving
35 wetland permit application number 110.

36 37 38 **4. Howard Residence**

39
40 Beth Evans (applicant's environmental consultant) noted the location of a wooded wetland
41 on the west side of the property. She indicated that there was considerable debris
42 (including up to total seven truckloads) within the wetland and buffer that the applicant

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1 removed. The City Planner, noted that such maintenance activities can be considered
2 permitted activities under the Wetlands Law, but that the law is not clear. He suggested
3 that the Commission should provide some guidelines to City Staff establishing a threshold
4 as to what constitutes routine maintenance or disturbance that requires a wetland permit.
5

6 Ms. Evans explained the application involved the construction of a new garage and the
7 modification of an existing driveway. Upon completion the project would result in a net
8 reduction in impervious area on the property.
9

10 The Commission noted that the location of the garage should be modified to comply with
11 the front yard setback. The Commission also requested the applicant to confirm the
12 location and configuration of the 100-foot wetland buffer boundary.
13

14 On a motion made by Peter Larr, seconded by Lawrence H. Lehman and carried by the
15 following vote:
16

17 AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H.
18 Lehman, Martha Monserrate

19 NAYS: None

20 RECUSED: None

21 ABSENT: Barbara Cummings
22

23 the Planning Commission took the following action:
24

25 **ACTION:** The Planning Commission set a public hearing on wetland permit application
26 number 115 for its next meeting on July 23, 2002.
27
28

29 5. McGuire Residence 30

31 Dibdi Shah (applicant's architect) provided a brief overview of the application noting that it
32 involves the raising of an existing residence approximately six feet so that the first floor
33 would be at elevation 16, above the 100-year flood stage elevation of 14. Ms. Shah noted
34 that a new crawl space below the first floor would be created that would have openings to
35 accommodate floodwaters. A new entryway consisting of approximately 150 square feet
36 would be added to the front of the house. Ms. Shah explained the housing lifting process
37 noting that it would be done by house lifting specialists and that the existing slab would
38 remain. She further noted that all work would be approved and sealed by a New York
39 licensed engineer.
40

41 The Commission noted that the application appeared acceptable and that the modest
42 increase in impervious area would be suitably mitigated by the significant flood hazard

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1 reduction of raising the residence above the 100-year flood elevation. The Commission
2 also agreed with the comments of the CC/AC noting that proper erosion controls be
3 provided during construction. The Commission also noted that the Board of Architectural
4 Review recommended that it be provided with an informal review of the proposed building
5 elevations.

6
7 On a motion made by Michael W. Klemens, seconded by Peter Larr and carried by the
8 following vote:

9
10 AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H.
11 Lehman, Martha Monserrate

12 NAYS: None

13 RECUSED: None

14 ABSENT: Barbara Cummings

15
16 the Planning Commission took the following action:

17
18 **ACTION:** The Planning Commission set a public hearing on amended wetland permit
19 application number 100A for its next meeting on July 23, 2002.

20 21 **6. Franchella Residence**

22
23 Dibdi Shah (applicant's architect) provided a brief overview of the application noting that
24 the property is located at the end of Pine Lane adjacent to Rye High School property. Ms.
25 Shah indicated that the application involves the construction of an addition to the residence
26 within a 100-foot wetland buffer. She indicated that the addition is necessary to provide a
27 playroom for her client's growing family and that it would be mostly located over an existing
28 deck, resulting in only a 56 square-foot increase in impervious area on the property.

29
30 The Commission questioned the location of the wetland. The City Planner noted that the
31 wetland is located off-site and that the applicant relied on the City's Wetlands map as the
32 basis for determining the wetland and buffer boundary.

33
34 The Commission requested that the plan be revised to provide a description of the type of
35 plant material and that the location of the plantings may change after the Commission's site
36 walk based on the proximity of the mitigation area to the Blind Brook. The Commission
37 noted that the applicant would be required to post a bond for the proposed mitigation
38 plantings if the wetland permit were approved.

39
40 Nick Hodnett questioned the applicant's survey noting that it does not show the existing
41 fence on the property, which may impact the location of the proposed mitigation area. The
42 Commission noted that it would review the fence location on the site walk.

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On a motion made by Martha Monserrate, seconded by Hugh Greechan and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Franklin Chu, Hugh Greechan, Lawrence H. Lehman, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing on wetland permit application number 114 for its next meeting on July 23, 2002.

7. Minutes

The Planning Commission reviewed and approved the minutes of its June 4, 2002 meeting.

There being no further business the Commission unanimously adopted a motion to adjourn the meeting at approximately 10:35 p.m.

Christian K. Miller, AICP
City Planner